IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

Crl.MC.No. 3859 of 2006()

CC.350/2003 of JUDL.MAGISTRATE OF FIRST CLASS COURT, CHITTUR
CRIME NO.40/2003 OF THE KOZHINJAMPARA POLICE STATION.

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PETITIONER: ACCUSED:

MANIKANTAN, AGED 25 YEARS,
S/O. GANGADHARAN, PAZHANIYAR PALAYAM, PUZHAMEDU,
KOZHINJAMPARA, PALAKKAD DISTRICT.

BY ADV. SRI.C.C.THOMAS

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
KOZHINJAMPARA POLICE STATION, PALAKKAD,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

BY P.P. SRI.K.A. AKBAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3859 OF 2006

Dated this the 22nd day of November, 2006

ORDER

The petitioner faces indictment in a prosecution under the provisions of the Copy Right Act. At the stage of 313 examination, the accused did not appear and the learned Magistrate has issued a non-bailable warrant to secure his presence. The petitioner now wants to surrender before the learned Magistrate; but apprehends that his application for bail may not be considered on merits and expeditiously. It is therefore prayed that directions may be issued to the learned Magistrate to release the petitioner on bail on the date of his surrender itself.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not enter appearance when the matter was posted for 313 examination. I have no reason to assume that the learned Magistrate would not consider the cause to be shown by the petitioner on merits and expeditiously even without special or specific directions.

Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this petition is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge